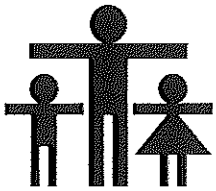

PARTNERSHIP FOR
CHILDREN'S RIGHTS

July 28, 2015

Honorable Carol Bagley Amon
Chief United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *J.L. o/b/o J.R. v. New York City Dept. of Educ.*, 15 CV 1200 (CBA) (RER)

Dear Judge Amon:

I am the attorney at Partnership for Children's Rights who represents the Plaintiffs in the above referenced appeal brought pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"). The parties write jointly pursuant to the Court's Individual Practice Rule 3.A to set forth the bases for the anticipated motions and to request a pre-motion conference or, should the Court deem a pre-motion conference to be unnecessary, to ask the Court to approve the briefing schedule and procedure outlined below.

As noted above, this case is an appeal pursuant to the IDEA. The parties will be asking the Court to review a final administrative decision rendered by a New York State Review Officer ("SRO") that denied Plaintiff J.L.'s request for an order directing the New York City Department of Education to pay her child J.R.'s tuition at the Mary McDowell Friends School for the 2012-2013 school year. Plaintiff's motion will be styled as a motion for summary judgment and will ask the Court to reverse the SRO's decision and issue an award in her favor. Defendant's cross-motion for summary judgment will ask the Court to affirm the SRO's decision.

Please note that the parties will be relying on the record of the administrative proceedings below in making cross-motions for summary judgment and will not be engaging in any discovery. Pursuant to Magistrate Judge Reyes's June 4, 2015 order, the certified administrative record has been obtained from the New York State Office of State Review and filed with the Court under seal. Therefore, the parties are prepared to move directly into motion practice.

While IDEA cases are typically resolved via cross-motions for summary judgment, the Second Circuit has explained that "a motion for summary judgment in an IDEA case often triggers more than an inquiry into possible disputed issues of fact. Rather, the motion serves as a pragmatic procedural mechanism for reviewing a state's compliance with the procedures set forth in [the] IDEA and determining whether the [educational program offered by the school district] is reasonably calculated to enable the child to receive educational benefits." *M.H. v. New York City Dep't of Educ.*, 685 F.3d 217, 225-6 (2d Cir. 2012) (internal quotations omitted).

"Thus, though the parties in an IDEA action may call the procedure 'a motion for summary judgment,' the procedure is in substance an appeal from an administrative determination, not a motion for summary judgment." *Id.* Accordingly, the Second Circuit has explicitly held that 56.1 statements are not required in IDEA cases. *T.Y. v. New York City Dep't of Educ.*, 584 F.3d 412, 417-18 (2d Cir. 2009).

The parties believe that a 56.1 statement (whether joint or separate) would be of limited value in resolving the issues in the instant case and that a robust statement of facts in the parties' respective memoranda of law would be more helpful to the Court. The parties therefore respectfully request that in lieu of 56.1 statements, that each side be permitted to file an initial moving brief of 35 pages in this matter. The parties request that Plaintiffs' opposition and reply brief and Defendant's reply brief each be limited to 25 pages.

Both parties misinterpreted Magistrate Judge Reyes's June 4, 2015 order as waiving 56.1 statements and setting a briefing schedule in this matter. First, please accept our apologies if our misunderstanding has caused confusion. Second, until the parties' misinterpretation of Magistrate Judge Reyes's order was resolved earlier this morning, the parties had been proceeding as if the following briefing schedule had been approved:

Plaintiffs' motion for summary judgment:	July 31, 2015
Defendant's cross-motion and opposition:	August 31, 2015
Plaintiffs' opposition and reply:	September 29, 2015
Defendant's reply:	October 29, 2015

The parties remain prepared to move forward under the briefing schedule and procedure outlined above and respectfully ask for the Court's approval. If the Court wishes to schedule a pre-motion conference in this matter, to set a different briefing schedule or to discuss any other matter, please know that the parties are available at any time through August 21st, but for August 5th and 7th.

Thank you for your consideration of these joint requests.

Respectfully submitted,

Thomas Gray (tg0880)
Partnership for Children's Rights
271 Madison Ave, 17th Floor
New York, NY 10016
(212) 683-7999 ex. 246
tgray@pfcr.org

cc: Stephen V. Pipenger, II, Esq. (attorney for Defendant / by ECF)

Honorable Ramon E. Reyes, Jr. (via U.S. mail)
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East, Rm. N208
Brooklyn, New York 11201